

Senate Engrossed House Bill

**FILED**

**KEN BENNETT**

**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 229

## **HOUSE BILL 2602**

AN ACT

AMENDING SECTION 11-483, ARIZONA REVISED STATUTES; RELATING TO COUNTY RECORDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-483, Arizona Revised Statutes, is amended to  
3 read:

4 11-483. Records maintained by county recorder; confidentiality;  
5 definitions

6 A. Notwithstanding any other provision of this article, in any county  
7 an eligible person may request that the general public be prohibited from  
8 accessing the unique identifier and the recording date contained in indexes  
9 of recorded instruments maintained by the county recorder and may request the  
10 county recorder to prohibit access to that person's residential address and  
11 telephone number contained in instruments or writings recorded by the county  
12 recorder.

13 B. An eligible person may request this action by filing an affidavit  
14 that states all of the following on an application form developed by the  
15 administrative office of the courts in agreement with an association of  
16 counties, an organization of peace officers and the motor vehicle division of  
17 the department of transportation:

18 1. The person's full legal name and residential address.

19 2. The full legal description and parcel number of the person's  
20 property.

21 3. The position the person currently holds and a description of the  
22 person's duties, except that an eligible person who is protected under an  
23 order of protection or injunction against harassment shall instead attach a  
24 copy of the order of protection or injunction against harassment.

25 4. The reasons the person reasonably believes that the person's life  
26 or safety or that of another person is in danger and that restricting access  
27 pursuant to this section will serve to reduce the danger.

28 5. The document locator number and recording date of each instrument  
29 for which the person requests access restriction pursuant to this section.

30 6. A copy of pages from each instrument that includes the document  
31 locator number and the person's full legal name and residential address or  
32 full legal name and telephone number.

33 C. If an eligible person is also requesting pursuant to section 11-484  
34 that the general public be prohibited from accessing records maintained by  
35 the county assessor and county treasurer, the eligible person may combine the  
36 request pursuant to subsection B of this section with the request pursuant to  
37 section 11-484 by filing one affidavit. The affidavit and subsequent action  
38 by the appropriate authorities shall meet all of the requirements of this  
39 section and section 11-484.

40 D. The affidavit shall be filed with the presiding judge of the  
41 superior court in the county in which the affiant resides. To prevent a  
42 multiplicity of filings, an eligible person who is a peace officer, public  
43 defender, prosecutor, code enforcement officer, corrections or detention  
44 officer, corrections support staff member or law enforcement support staff  
45 member shall deliver the affidavit to the peace officer's commanding officer,

1 or to the head of the prosecuting, public defender, code enforcement, law  
2 enforcement, corrections or detention agency, as applicable, or that person's  
3 designee, who shall file the affidavits at one time. In the absence of an  
4 affidavit that contains a request for immediate action and that is supported  
5 by facts justifying an earlier presentation, the commanding officer, or the  
6 head of the prosecuting, public defender, code enforcement, law enforcement,  
7 corrections or detention agency, as applicable, or that person's designee,  
8 shall not file affidavits more often than quarterly.

9 E. On receipt of an affidavit or affidavits, the presiding judge of  
10 the superior court shall file with the clerk of the superior court a petition  
11 on behalf of all requesting affiants. Each affidavit presented shall be  
12 attached to the petition. In the absence of an affidavit that contains a  
13 request for immediate action and that is supported by facts justifying an  
14 earlier consideration, the presiding judge may accumulate affidavits and file  
15 a petition at the end of each quarter.

16 F. The presiding judge of the superior court shall review the petition  
17 and each attached affidavit to determine whether the action requested by each  
18 affiant should be granted. If the presiding judge of the superior court  
19 concludes that the action requested by the affiant will reduce a danger to  
20 the life or safety of the affiant or another person, the presiding judge of  
21 the superior court shall order that the county recorder prohibit access for  
22 five years to the affiant's residential address and telephone number  
23 contained in instruments or writings recorded by the county recorder and made  
24 available on the internet. If the presiding judge of the superior court  
25 concludes that the affiant or another person is in actual danger of physical  
26 harm from a person or persons with whom the affiant has had official dealings  
27 and that action pursuant to this section will reduce a danger to the life or  
28 safety of the affiant or another person, the presiding judge of the superior  
29 court shall order that the general public be prohibited for five years from  
30 accessing the unique identifier and the recording date contained in indexes  
31 of recorded instruments maintained by the county recorder and identified  
32 pursuant to subsection B of this section.

33 G. On motion to the court, if the presiding judge of the superior  
34 court concludes that an instrument or writing recorded by the county recorder  
35 has been redacted or sealed in error, that the original affiant no longer  
36 lives at the address listed in the original affidavit, that the cause for the  
37 original affidavit no longer exists or that temporary access to the  
38 instrument or writing is needed, the presiding judge may temporarily stay or  
39 permanently vacate all or part of the court order prohibiting public access  
40 to the recorded instrument or writing.

41 H. On entry of the court order, the clerk of the superior court shall  
42 file the court order and a copy of the affidavit required by subsection B of  
43 this section with the county recorder. No more than ten days after the date  
44 on which the county recorder receives the court order, the county recorder

1 shall restrict access to the information as required by subsection F of this  
2 section.

3 I. If the court denies an affiant's request pursuant to this section,  
4 the affiant may request a court hearing. The hearing shall be conducted by  
5 the court in the county where the petition was filed.

6 J. The county recorder shall remove the restrictions on all records  
7 restricted pursuant to this section by January 5 in the year after the court  
8 order expires. The county recorder shall send by mail one notification to  
9 either the peace officer, public defender, prosecutor, code enforcement  
10 officer, corrections or detention officer, corrections support staff member  
11 or law enforcement support staff member or the employing agency of a peace  
12 officer, public defender, prosecutor, code enforcement officer, corrections  
13 or detention officer, corrections support staff member or law enforcement  
14 support staff member who was granted an order pursuant to this section of the  
15 order's expiration date at least six months before the expiration date. If  
16 the notice is sent to the employing agency, the employing agency shall  
17 immediately notify the person who was granted the order of the upcoming  
18 expiration date. The county recorder may coordinate with the county assessor  
19 and county treasurer to prevent multiple notices from being sent to the same  
20 person.

21 K. To include subsequent recordings in the court order, the eligible  
22 person shall present to the county recorder at the time of recordation a  
23 certified copy of the court order or shall provide to the county recorder the  
24 recording number of the court order. The county recorder shall ensure that  
25 public access shall be restricted pursuant to subsection A of this section.

26 L. This section shall not be interpreted to restrict access to public  
27 records for the purposes of perfecting a lien pursuant to title 12, chapter  
28 9, article 2.

29 M. This section does not prohibit access to the records of the county  
30 recorder by parties to the instrument, A LAW ENFORCEMENT OFFICER PERFORMING  
31 THE OFFICER'S OFFICIAL DUTIES PURSUANT TO SUBSECTION N OF THIS SECTION, a  
32 title insurer, a title insurance agent or an escrow agent licensed by the  
33 department of insurance or the department of financial institutions.

34 N. A LAW ENFORCEMENT OFFICER IS DEEMED TO BE PERFORMING THE OFFICER'S  
35 OFFICIAL DUTIES IF THE OFFICER PROVIDES A SUBPOENA, COURT ORDER OR SEARCH  
36 WARRANT FOR THE RECORDS.

37 ~~N.~~ O. For the purposes of this section:

38 1. "Code enforcement officer" means a person who is employed by a  
39 state or local government and whose duties include performing field  
40 inspections of buildings, structures or property to ensure compliance with  
41 and enforce national, state and local laws, ordinances and codes.

42 2. "Commissioner" means a commissioner of the superior court.

43 3. "Corrections support staff member" means an adult or juvenile  
44 corrections employee who has direct contact with inmates.

1        4. "Eligible person" means a peace officer, justice, judge,  
2 commissioner, public defender, prosecutor, code enforcement officer, adult or  
3 juvenile corrections officer, corrections support staff member, probation  
4 officer, member of the board of executive clemency, law enforcement support  
5 staff member, national guard member who is acting in support of a law  
6 enforcement agency, person who is protected under an order of protection or  
7 injunction against harassment or firefighter who is assigned to the Arizona  
8 counterterrorism center in the department of public safety.

9        5. "Indexes" means only those indexes that are maintained by and  
10 located in the office of the county recorder, that are accessed  
11 electronically and that contain information beginning from and after January  
12 1, 1987.

13       6. "Judge" means a judge of the United States district court, the  
14 United States court of appeals, the United States magistrate court, the  
15 United States bankruptcy court, the Arizona court of appeals, the superior  
16 court or a municipal court.

17       7. "Justice" means a justice of the United States or Arizona supreme  
18 court or a justice of the peace.

19       8. "Law enforcement support staff member" means a person who serves in  
20 the role of an investigator or prosecutorial assistant in an agency that  
21 investigates or prosecutes crimes, who is integral to the investigation or  
22 prosecution of crimes and whose name or identity will be revealed in the  
23 course of public proceedings.

24       9. "Peace officer" means any person vested by law, or formerly vested  
25 by law, with a duty to maintain public order and make arrests.

26       10. "Prosecutor" means a county attorney, a municipal prosecutor, the  
27 attorney general or a United States attorney and includes an assistant or  
28 deputy United States attorney, county attorney, municipal prosecutor or  
29 attorney general.

30       11. "Public defender" means a federal public defender, county public  
31 defender, county legal defender or county contract indigent defense counsel  
32 and includes an assistant or deputy federal public defender, county public  
33 defender or county legal defender.

APPROVED BY THE GOVERNOR MAY 6, 2010.

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